



# LEGAL NEWSLETTER

NEWSLETTER  
07/09/2010

## HOW ARE ASSETS PLACED INTO A TRUST?

### 4 different ways to place assets in a trust:

#### 1. SELLING:

If a person sells a personal asset to a trust, such as a fixed property, the following happens:

- a. A Resolution is passed by the trustees to purchase the fixed property.
- b. A Written deed of Sale is signed by the Seller and trustees on behalf of the trust
- c. Transfer Duty at 8% on the purchase price is paid to the Receiver of Revenue.
- d. The receiver of Revenue will accept a valuation of the property by a sworn appraiser or by two estate Agents as proof that the property was sold at a fair market value.
- e. The fixed property is registered in the name of the trust in the Deeds Office.
- f. The normal fee of the transfer attorney for transferring the property into the name of the trust is applicable.

#### 2. DONATION

Should a person, for instance, donate his furniture to his trust, the following will happen:

- a. A resolution will be passed by the trustees accepting the donation.
- b. A written Deed of Donation will be signed by the Donor and the trustees as Donee.
- c. A donation of R 100 000.00 per Donor may be done free of donation tax per annum.
- d. The amount of a donation exceeding R 100 000.00 is subject to donation tax of 20%.

#### 3. BEQUEST IN TERMS OF A WILL.

- a. A person may bequeath unlimited assets to a trust.
- b. In the event of fixed property being bequeathed to a trust, the normal transfer fee is payable to the transfer attorney, but no transfer duty is payable to the Receiver of Revenue.
- c. In terms of the general rebate for Estate Duty purposes, applicable to each person who dies, bequests in terms of a will are exempted from estate duty, according to present legislation, up to an amount of R 3 500 000.00.

#### 4. PURCHASE OF ASSETS BY TRUSTEES.

Trustees of a trust may purchase assets in a trust in terms of the powers bestowed upon them in the Trust Deed. By purchasing, for instance a fixed property in a trust, the following will happen:

- a. A resolution needs to be passed by the trustees that the property will be purchased, how it will be paid for, if a bond needs to be applied for, which of the trustees will sign the application documents for the bond and forms to effect transfer of the fixed property.
- b. A written Deed of Sale will be signed by the nominated trustee on behalf of the trust.
- c. The normal fees will be payable to the transfer attorney and transfer duty will be paid to the receiver of Revenue at 8% on the purchase price of the fixed property.
- d. In the event of the trust applying for a bond as part payment for the fixed property, the nominated trustee/s apply(ies) for the bond on behalf of the trust. The bond is registered in the Deeds Office against the fixed property. The normal fees will be payable to the attorney registering the bond. The normal fees are payable to the attorney registering the bond. The financial institution granting the bond may require additional security for the bond granted. In such an event the trust may apply for an insurance policy on the life of a nominated trustee and such policy may then be ceded to the financial institution as additional security.

PREPARED BY: JACO BURMEISTER; Epos: [jaco@lubbestrust.co.za](mailto:jaco@lubbestrust.co.za), WIM BURMEISTER; Epos: [wim@lubbestrust.co.za](mailto:wim@lubbestrust.co.za), HARRY SOLOMON; Epos: [harry@lubbestrust.co.za](mailto:harry@lubbestrust.co.za)

For any questions regarding a subject in the fiduciary environment, please contact any of the aforementioned persons.

Eenheid 7, Montana Forum  
Tecomariastraat 20, Montana 0186  
Posbus 906 453, Magalieskruin, 0150  
Tel: 012 548 6460  
Faks: 012 548 4130  
Reg. No. 2003/011603/07



Unit 7, Montana Forum  
20 Tecomaria Street, Montana 0186  
PO Box 906 453, Magalieskruin, 0150  
Tel: 012 548 6460  
Fax: 012 548 4130  
Reg. Nr. 2003/011603/07